

**Board of Chiropractic Examiners**

2525 Natomas Park Drive, Suite 260  
Sacramento, California 95833-2931  
Telephone (916) 263-5355 FAX (916) 263-5369  
CA Relay Service TT/TDD (800) 735-2929  
Consumer Complaint Hotline (866) 543-1311  
<http://www.chiro.ca.gov>

**NOTICE OF PUBLIC MEETING****Scope of Practice Committee****September 4, 2008****1:00 p.m.****2525 Natomas Park Drive, Suite 100  
Sacramento, CA 95833****AGENDA****CALL TO ORDER****Approval of Minutes**

- July 17, 2008

**Public Comment****Discussion and Possible Action**

- Chiropractic Use of X-Ray on Non-Chiropractic Patients

**Discussion and Possible Action**

- Update on Standard of Care Regulations for Manipulation Under Anesthesia

**Public Comment****Future Agenda Items****ADJOURNMENT****SCOPE OF PRACTICE COMMITTEE**

Hugh Lubkin, D.C., Chair

Frederick Lerner, D.C.

**The Board of Chiropractic Examiners' paramount responsibility is to protect California consumers from the fraudulent, negligent, or incompetent practice of chiropractic care.**

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A quorum of the Board may be present at the Committee meeting. However, Board members who are not on the committee may observe, but may not participate or vote. Public comments will be taken on agenda items at the time the specific item is raised. The Committee may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at [www.chiro.ca.gov](http://www.chiro.ca.gov).

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The meeting is accessible to the physically disabled. If a person needs disability-related accommodations or modifications in order to participate in the meeting, please make a request no later than five working days before the meeting to the Board by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or sending a written request to that person at the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Requests for further information should be directed to Ms. Valencia at the same address and telephone number.

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## **BOARD OF CHIROPRACTIC EXAMINERS MEETING MINUTES**

### **Scope of Practice Committee**

**July 17, 2008**

**State Capitol**

**Assembly Room 126**

**Sacramento, CA 95814**

#### **Committee Members Present**

Hugh Lubkin, D.C., Chair

Frederick Lerner, D.C.

#### **Staff Present**

Brian Stiger, Executive Officer

LaVonne Powell, Senior Staff Counsel

Marlene Valencia, Staff Services Analyst

Valerie James, Office Technician

#### **Call to Order**

Dr. Lubkin called the meeting to order at 10:05am.

#### **Roll Call**

Dr. Lerner called the roll. All committee members were present.

#### **Approval of Minutes**

May 7, 2008 minutes

**DR. LERNER MOVED TO APPROVE THE MINUTES. DR LUBKIN SECONDED THE MOTION;  
VOTE 2-0, MOTION CARRIED**

#### **Public Comment**

Dr. Charles Davis, D.C. International Chiropractic Association of California (ICAC) recommended that the committee consider the suggestions from ICAC regarding the recognition of chiropractic specialties submitted to the committee at the last meeting.

## **Recognition of Chiropractic Specialties**

Mr. Stiger informed the committee that staff is researching Chiropractic Specialties project and plans to have proposed language to present to the Board at the September Board meeting.

Dr. Lubkin stated that after he conducted initial research that this project is much larger than originally thought and that he appreciated the time involved with this project.

Dr. Lerner reiterated that the Board cannot license or certify chiropractic specialties. The Board can only recognize the specialties.

Dr. Lubkin offered that this issue pertains to Business & Professions codes 650 and 651.

## **Public Comment**

Kristine Schultz, California Chiropractic Association (CCA), spoke in support of recognizing chiropractic specialties and suggested that the Board proceed with emergency regulations to expedite the process.

Dr. Welch expressed his concerns of that former Board staff attempted to limit the chiropractic scope of practice through the Board's enforcement practices.

Dr. Lubkin stated that he looks forward to the day when people appreciate that the current Board is not the past Board and the current Board staff is not the past Board staff. The Board is a public protection entity and that as long as advertising is truthful and honest the profession will not have a problem with this Board.

Dr. Lerner clarified that the Board is not pursuing recognizing chiropractic specialties to promote the profession. The Board is concerned about public protection regarding chiropractic specialties and making sure that the chiropractor is qualified to perform the specialty in which they are advertising, so that the public can make an informed choice.

## **Update on Scope of Radiography in the Chiropractic Practice**

Dr. Lubkin explained the ongoing issues regarding chiropractic use of x-ray in relation to the practice act. Dr. Lubkin assured the public and the profession that the committee is working diligently to address the issues and bring this topic to its conclusion.

Dr. Charles Fleming, D.C. shared his experience in taking x-rays of non-chiropractic patients and believes that chiropractors may lawfully take x-rays of medical patients.

Dr. Lubkin explained that the Radiological Board determined that the use of the supervisor operator certificate is determined by the Chiropractic Board. Dr. Lubkin clarified the difference between a chiropractor acting as radiology technician and a chiropractor who takes an x-ray, formulates a diagnosis, and prepares a written report.

Dr. Schnell stated that the chiropractic regulations do not state that chiropractors cannot take x-rays of non-chiropractic patients and wanted to know what the Board's primary concerns were.

Dr. Lerner stated the committee has asked for a legal opinion on this issue, which is not completed. He reiterated the language in section 302 and stated the Radiology Committee determined that the chiropractors may take x-rays within the scope of practice. He stated that chiropractors can take x-rays of the entire body not just the muscles, bones, and joints. Dr. Lerner believes that the Radiology Committee may have been misinformed about the chiropractic scope of practice in the past.

Mr. Stiger informed Dr. Schell that the issue may not be resolved fully with the legal opinion. There may be additional work that the committee may need to complete before the issue is totally resolved.

Dr. Lerner asked if the committee can make the legal opinion public. Mr. Stiger informed the committee that it would be the committee's decision to make the opinion from legal public information.

Kristine Schultz spoke in support of chiropractors taking x-rays of non-chiropractic patients.

Dr. Davis spoke in support of chiropractors taking x-rays of non-chiropractic patients.

**Issues raised in "Petition to Define Practice Rights and to Amend, Repeal and /or Adopt Scope of Practice Regulation as needed," Submitted by David Prescott, Attorney**

Dr. Lubkin explained that David Prescott raised several interesting issues regarding the Scope of Practice that was placed on the ballot in 1922.

Dr. Davis expressed to the Board that he would like the board to publish the complete ballot that Dr. Prescott presented to the committee.

Dr. Lubkin expressed concern regarding the authenticity of the documents submitted by David Prescott.

**DR. LERNER MOVED TO SEND THE DOCUMENT TO THE SECRETARY OF STATE TO VERIFY ITS AUTHENTICITY AND IF THEY FIND IT AUTHENTIC RECOMMEND TO THE FULL BOARD TO REPRINT THE ACT THE WAY IT WAS WRITTEN IN 1922.**

**DR. LUBKIN SECONDED THE MOTION:**

**VOTE: 2-0**

**MOTION CARRIED**

**Future Agenda Items**

Dr. Lubkin would like to have the letter from DCA regarding Scope of Radiography and use of radiography in the practice of chiropractic.

**Adjournment**

Dr. Lubkin adjourned the meeting at 10:55 a.m.

STEPHEN B. GORMAN  
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DOUGLAS E. STEIN  
SPECIAL COUNSEL

MATTHEW D. ENGBRETSON  
ASSOCIATE COUNSEL

June 27, 2006

VIA US MAIL AND FAX

Board of Chiropractic Examiners  
2525 Natomas Park Dr., Ste. 260  
Sacramento, CA 95833-2931  
Fax: 916-263-5355

Re: Board meeting of July 20, 2006

Dear Gentilepersons:

I am writing on behalf of my client, Rodney Schell, D.C. Dr. Schell has been licensed as a chiropractor in the State of California for many years. He has also been licensed as a X-Ray Supervisor and Operator by the California Department of Health Services. Until recently he was employed by Community Mobile Diagnostics to supervise and operate x-ray machines. After receiving a "NOTICE OF VIOLATION" from Ephraim Maura of the Inspection, Compliance and Enforcement Section, Radiologic Health Branch, Richmond Regional Office of the Department of Health Services, Dr. Schell's employer terminated his services. Upon investigation we discovered that the "violation" that Mr. Maura complained of was simply that Dr. Schell was a chiropractor. I have attached copies of the notice of violation and Community Mobile Diagnostic's response for your review.

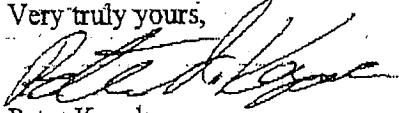
Under §302(a)(6) of Title 16 of the regulations of the California Board of Chiropractic Examiners, as a licensed chiropractor Dr. Schell is licensed to use x-ray equipment for diagnostic purposes. The scope of Dr. Schell's work with Community Mobile Diagnostics was entirely diagnostic; none of the procedures he did were "treatment". It would seem that Mr. Maura's contention is that as a chiropractor he did not meet the requirement established by California Health and Safety Code §107110, specifically that anyone operating an x-ray machine be certified by a recognized examining board in radiology. Dr. Schell's license was valid for diagnostic work, and he did not exceed the scope of that license.

I believe that a short Letter of Opinion from the Board to Mr. Maura and his Department supervisor would be invaluable in clarifying this issue. On Dr. Schell's behalf, I respectfully request that the Board place this matter on the agenda for the next Board of Chiropractic Examiners meeting scheduled to be held July 20, 2006. Dr. Schell plans to attend that meeting and he will be pleased to provide whatever information you may need to resolve this issue.

Board of Chiropractic Examiners  
June 27, 2006  
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I appreciate your assistance in this matter. Should you have any questions or if I can be of further assistance, please do not hesitate to contact me.

Very truly yours,



Peter Kozak  
Attorney at Law

PJK:ap

bcc: Rodney Schell, D.C.  
(fax) 916-990-0131

**Manipulation Under Anesthesia (MUA)**  
**Proposed Regulations**  
**Update**

**September 4, 2008**

**Status:**

- March 27, 2008 – The Board approved the proposed regulatory language with minor amendments
- August 13, 2008 – Revised proposed regulatory language
- August 20, 2008 – Board staff met with staff with the Office of Administrative Law (OAL) to discuss the MUA proposed regulations
- September 24, 2008 – Revised proposed regulatory language to be presented to the full Board for adoption
- October 14, 2008 – Projected filing date with OAL
- October 24, 2008 – December 8, 2008 – Projected 45-day written comment period
- December 8, 2008 – Projected public hearing date in Sacramento